

1 **UNIFORM COMMERCIAL DRIVER LICENSE**

2 **ACT AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kevin T. Van Tassell**

6 House Sponsor: Julie Fisher

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Transportation Interim Committee recommended this bill.

11 **General Description:**

12 This bill modifies the Uniform Commercial Driver License Act by amending provisions
13 relating to commercial driver licenses.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ provides that the Driver License Division may, rather than shall, waive the skills
17 test if it determines that an applicant for a commercial driver license meets certain
18 requirements;
- 19 ▶ provides that a person who holds or is required to hold a CDL is disqualified from
20 driving a commercial motor vehicle for a period of not less than a year if convicted
21 of driving a commercial motor vehicle while the person's commercial driver license
22 is disqualified for violating certain offenses;
- 23 ▶ increases the number of days that a driver of a commercial motor vehicle is
24 disqualified from driving a commercial vehicle if the person is convicted of
25 violating an out-of-service order;
- 26 ▶ increases the minimum civil penalty amounts for a driver of a commercial motor
27 vehicle who is convicted of violating an out-of-service order;



28 ▶ provides that an employer may not knowingly allow, permit, or authorize a driver to
29 drive a commercial motor vehicle during any period when the driver is operating a
30 commercial motor vehicle or employed by a motor carrier operation that is subject
31 to an out-of-service order;

32 ▶ increases the maximum fine amount for an employer who is convicted of knowingly
33 allowing, permitting, or authorizing a driver to drive a commercial vehicle when the
34 driver, the commercial motor vehicle, or a motor carrier operation is subject to an
35 out-of-service order; and

36 ▶ makes technical changes.

37 **Monies Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 None

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **53-3-407**, as last amended by Laws of Utah 2009, Chapter 315

44 **53-3-414**, as last amended by Laws of Utah 2007, Chapters 53 and 132

45 **53-3-415**, as last amended by Laws of Utah 2007, Chapter 53



47 *Be it enacted by the Legislature of the state of Utah:*

48 Section 1. Section **53-3-407** is amended to read:

49 **53-3-407. Qualifications for commercial driver license -- Fee -- Third parties may**
50 **administer skills test.**

51 (1) (a) As used in this section, "CDL driver training school" means a business
52 enterprise conducted by an individual, association, partnership, or corporation that:

53 (i) educates and trains persons, either practically or theoretically, or both, to drive
54 commercial motor vehicles; and

55 (ii) prepares an applicant for an examination under Subsection (2)(a)(ii) or (2)(b)(i)(B).

56 (b) A CDL driver training school may charge a consideration or tuition for the services
57 provided under Subsection (1)(a).

58 (2) (a) Except as provided in Subsection (2)(b), a CDL may be issued only to a person

59 who:

60 (i) is a resident of this state;

61 (ii) has passed a test of knowledge and skills for driving a commercial motor vehicle,
62 that complies with minimum standards established by federal regulation in 49 C.F.R., Part 383,
63 Subparts G and H; and

64 (iii) has complied with all requirements of 49 C.F.R., Part 383 and other applicable
65 state laws and federal regulations.

66 (b) (i) A temporary CDL may be issued to a person who:

67 (A) is enrolled in a CDL driver training school located in Utah;

68 (B) has passed a test of knowledge and skills for driving a commercial motor vehicle,
69 that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383,
70 Subparts G and H; and

71 (C) has complied with all requirements of 49 C.F.R. Part 383, Subparts G and H.

72 (ii) A temporary CDL issued under this Subsection (2)(b):

73 (A) is valid for 60 days; and

74 (B) may not be renewed or extended.

75 (iii) Except as provided in this section and Subsections 53-3-204(1)(a)(iv),
76 53-3-205(8)(a)(i)(E) and (8)(b), and 53-3-410(1)(c), the provisions, requirements, classes,
77 endorsements, fees, restrictions, and sanctions under this code apply to a temporary CDL
78 issued under this Subsection (2)(b) in the same way as a commercial driver license issued
79 under this part.

80 (3) Tests required under this section shall be prescribed and administered by the
81 division.

82 (4) The division shall authorize a person, an agency of this or another state, an
83 employer, a private driver training facility or other private institution, or a department, agency,
84 or entity of local government to administer the skills test required under this section if:

85 (a) the test is the same test as prescribed by the division, and is administered in the
86 same manner; and

87 (b) the party authorized under this section to administer the test has entered into an
88 agreement with the state that complies with the requirements of 49 C.F.R., Part 383.75.

89 (5) A person who has an appointment with the division for testing and fails to keep the

90 appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee
91 under Section 53-3-105.

92 (6) A person authorized under this section to administer the skills test is not criminally
93 or civilly liable for the administration of the test unless he administers the test in a grossly
94 negligent manner.

95 (7) The division [~~shall~~] may waive the skills test required under this section if it
96 determines that the applicant meets the requirements of 49 C.F.R., Part 383.77.

97 Section 2. Section **53-3-414** is amended to read:

98 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**
99 **Procedure.**

100 (1) A person who holds or is required to hold a CDL is disqualified from driving a
101 commercial motor vehicle for a period of not less than one year if convicted of a first offense
102 of:

103 (a) driving a motor vehicle while under the influence of alcohol, drugs, a controlled
104 substance, or more than one of these;

105 (b) driving a commercial motor vehicle while the concentration of alcohol in the
106 person's blood, breath, or urine is .04 grams or more;

107 (c) leaving the scene of an accident involving a motor vehicle the person was driving;

108 (d) failing to provide reasonable assistance or identification when involved in an
109 accident resulting in:

110 (i) death in accordance with Section 41-6a-401.5; or

111 (ii) personal injury in accordance with Section 41-6a-401.3;

112 (e) using a motor vehicle in the commission of a felony;

113 (f) refusal to submit to a test to determine the concentration of alcohol in the person's
114 blood, breath, or urine;

115 (g) driving a commercial motor vehicle while the person's commercial driver license is
116 disqualified[, suspended, canceled, withdrawn, barred, denied, or revoked] in accordance with
117 the provisions of this section for violating an offense described in this section; or

118 (h) operating a commercial motor vehicle in a negligent manner causing the death of
119 another including the offenses of automobile homicide under Section 76-5-207, manslaughter
120 under Section 76-5-205, or negligent homicide under Section 76-5-206.

121 (2) If any of the violations under Subsection (1) occur while the driver is transporting a
122 hazardous material required to be placarded, the driver is disqualified for not less than three
123 years.

124 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds
125 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if
126 convicted of or administrative action is taken for two or more of any of the offenses under
127 Subsection (1), (5), or (14) arising from two or more separate incidents.

128 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

129 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under
130 this section may apply to the division for reinstatement of the driver's CDL if the driver:

131 (i) has both voluntarily enrolled in and successfully completed an appropriate
132 rehabilitation program that:

133 (A) meets the standards of the division; and

134 (B) complies with 49 C.F.R. Part 383.51;

135 (ii) has served a minimum disqualification period of 10 years; and

136 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving
137 privileges established by rule of the division.

138 (b) If a reinstated driver is subsequently convicted of another disqualifying offense
139 under this section, the driver is permanently disqualified for life and is ineligible to again apply
140 for a reduction of the lifetime disqualification.

141 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified
142 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the
143 commission of any felony involving the manufacturing, distributing, or dispensing of a
144 controlled substance, or possession with intent to manufacture, distribute, or dispense a
145 controlled substance and is ineligible to apply for a reduction of the lifetime disqualification
146 under Subsection (4).

147 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds
148 or is required to hold a CDL is disqualified for not less than:

149 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
150 serious traffic violations; and

151 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

152 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic
153 violations:

- 154 (i) occur within three years of each other;
- 155 (ii) arise from separate incidents; and
- 156 (iii) involve the use or operation of a commercial motor vehicle.

157 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is
158 disqualified from driving a commercial motor vehicle and the division receives notice of a
159 subsequent conviction for a serious traffic violation that results in an additional disqualification
160 period under this Subsection (6), the subsequent disqualification period is effective beginning
161 on the ending date of the current serious traffic violation disqualification period.

162 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an
163 out-of-service order while driving a commercial motor vehicle is disqualified from driving a
164 commercial motor vehicle for a period not less than:

- 165 (i) ~~[90 days but not more than one year]~~ 180 days if the driver is convicted of a first
166 violation;
- 167 (ii) ~~[one year but not more than five years]~~ two years if, during any ~~[ten-year]~~ 10 year
168 period, the driver is convicted of two violations of out-of-service orders in separate incidents;
- 169 (iii) three years but not more than five years if, during any ~~[ten-year]~~ 10 year period,
170 the driver is convicted of three or more violations of out-of-service orders in separate incidents;
- 171 (iv) 180 days but not more than two years if the driver is convicted of a first violation
172 of an out-of-service order while transporting hazardous materials required to be placarded or
173 while operating a motor vehicle designed to transport 16 or more passengers, including the
174 driver; or

175 (v) three years but not more than five years if, during any ~~[ten-year]~~ 10 year period, the
176 driver is convicted of two or more violations, in separate incidents, of an out-of-service order
177 while transporting hazardous materials required to be placarded or while operating a motor
178 vehicle designed to transport 16 or more passengers, including the driver.

179 (b) A driver of a commercial motor vehicle who is convicted of ~~[violating]~~ a first
180 violation of an out-of-service order is subject to a civil penalty of not less than ~~[\$1,100 nor~~
181 ~~more than \$2,750]~~ \$2,500.

182 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent

183 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

184 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is
185 disqualified for not less than 60 days if the division determines, in its check of the driver's
186 driver license status, application, and record prior to issuing a CDL or at any time after the
187 CDL is issued, that the driver has falsified information required to apply for a CDL in this
188 state.

189 (9) A driver of a commercial motor vehicle who is convicted of violating a
190 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a
191 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period
192 not less than:

193 (a) 60 days if the driver is convicted of a first violation;

194 (b) 120 days if, during any three-year period, the driver is convicted of a second
195 violation in separate incidents; or

196 (c) one year if, during any three-year period, the driver is convicted of three or more
197 violations in separate incidents.

198 (10) (a) The division shall update its records and notify the CDLIS within 10 days of
199 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

200 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL,
201 the division shall notify the licensing authority of the issuing state or other jurisdiction and the
202 CDLIS within 10 days after the action is taken.

203 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this
204 state, the division shall notify the CDLIS within 10 days after the action is taken.

205 (11) (a) The division may immediately suspend or disqualify the CDL of a driver
206 without a hearing or receiving a record of the driver's conviction when the division has reason
207 to believe that the:

208 (i) CDL was issued by the division through error or fraud;

209 (ii) applicant provided incorrect or incomplete information to the division;

210 (iii) applicant cheated on any part of a CDL examination;

211 (iv) driver no longer meets the fitness standards required to obtain a CDL; or

212 (v) driver poses an imminent hazard.

213 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with

214 Section 53-3-221.

215 (c) If a hearing is held under Section 53-3-221, the division shall then rescind the
216 suspension order or cancel the CDL.

217 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is
218 required to hold a CDL is disqualified for not less than:

219 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
220 serious traffic violations; and

221 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

222 (b) The disqualifications under Subsection (12)(a) are effective only if the serious
223 traffic violations:

224 (i) occur within three years of each other;

225 (ii) arise from separate incidents; and

226 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving
227 privilege from at least one of the violations.

228 (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified
229 from driving a commercial motor vehicle and the division receives notice of a subsequent
230 conviction for a serious traffic violation that results in an additional disqualification period
231 under this Subsection (12), the subsequent disqualification period is effective beginning on the
232 ending date of the current serious traffic violation disqualification period.

233 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no
234 contest to a violation of a disqualifying offense described in this section which plea is held in
235 abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend,
236 cancel, or revoke the person's CDL for the period required under this section for a conviction of
237 that disqualifying offense, even if the charge has been subsequently reduced or dismissed in
238 accordance with the plea in abeyance agreement.

239 (b) The division shall report the plea in abeyance to the CDLIS within 10 days of
240 taking the action under Subsection (13)(a).

241 (c) A plea which is held in abeyance may not be removed from a person's driving
242 record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

243 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or

244 (ii) expunged under Section 77-18-11.

245 (14) The division shall disqualify the CDL of a driver for an arrest of a violation of
246 Section 41-6a-502 when administrative action is taken against the operator's driving privilege
247 pursuant to Section 53-3-223 for a period of:

248 (a) one year; or

249 (b) three years if the violation occurred while transporting hazardous materials.

250 (15) The division may concurrently impose any disqualification periods that arise
251 under this section while a driver is disqualified by the Secretary of the United States
252 Department of Transportation under 49 C.F.R. 383.52 for posing an imminent hazard.

253 Section 3. Section **53-3-415** is amended to read:

254 **53-3-415. Limitations on employment of commercial motor vehicle drivers.**

255 (1) An employer shall require each applicant for employment as a commercial motor
256 vehicle driver to provide the information required in Section 53-3-416 regarding the applicant's
257 employment history.

258 (2) An employer may not knowingly allow, permit, or authorize a driver to drive a
259 commercial motor vehicle during any period when the driver:

260 (a) has a CDL that is suspended, revoked, or canceled by any state;

261 (b) has lost the privilege to drive a commercial motor vehicle in a state;

262 (c) has been disqualified from driving a commercial motor vehicle;

263 (d) has more than one license; [~~or~~]

264 (e) is subject to an out-of-service order[~~;~~]; or

265 (f) is operating a commercial motor vehicle or employed by a motor carrier operation
266 that is subject to an out-of-service order.

267 (3) An employer may not knowingly allow, permit, require, or authorize a person to
268 violate a federal, state, or local law pertaining to railroad-highway grade crossings.

269 (4) (a) An employer who violates Subsection (2)(a), (b), or (c) during the period the
270 driver has been disqualified under Subsection 53-3-414(9) is subject to a civil penalty of not
271 more than \$10,000.

272 (b) An employer who is convicted of violating Subsection (2)(e) or (f) is subject to a
273 civil penalty of not less than \$2,750 nor more than [~~\$11,000~~] \$25,000.

274 (c) An employer who is convicted of violating Subsection (3) is subject to a civil
275 penalty of \$10,000.

Legislative Review Note
as of 11-18-09 5:25 PM

Office of Legislative Research and General Counsel

S.B. 17 - Uniform Commercial Driver License Act Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations. Had existing penalties been enforced in the past, they would have generated \$27,000 per year in revenue to the Transportation Fund. This bill would increase such potential collections by \$12,300 per year.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
Transportation Fund	\$0	\$0	\$0	\$0	\$12,300	\$12,300
Total	\$0	\$0	\$0	\$0	\$12,300	\$12,300

Individual, Business and/or Local Impact

Enactment of this bill will not affect local governments. Offending businesses and individuals will incur increased costs in fines as a result of this legislation.
